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UNITED STATES DEPARTMENT OF AGRICULTURE  
Agricultural Marketing Service

1939 27 1939

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RULES AND REGULATIONS TO GOVERN THE  
INSPECTION, SAMPLING, AND CERTIFICATION OF  
COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES

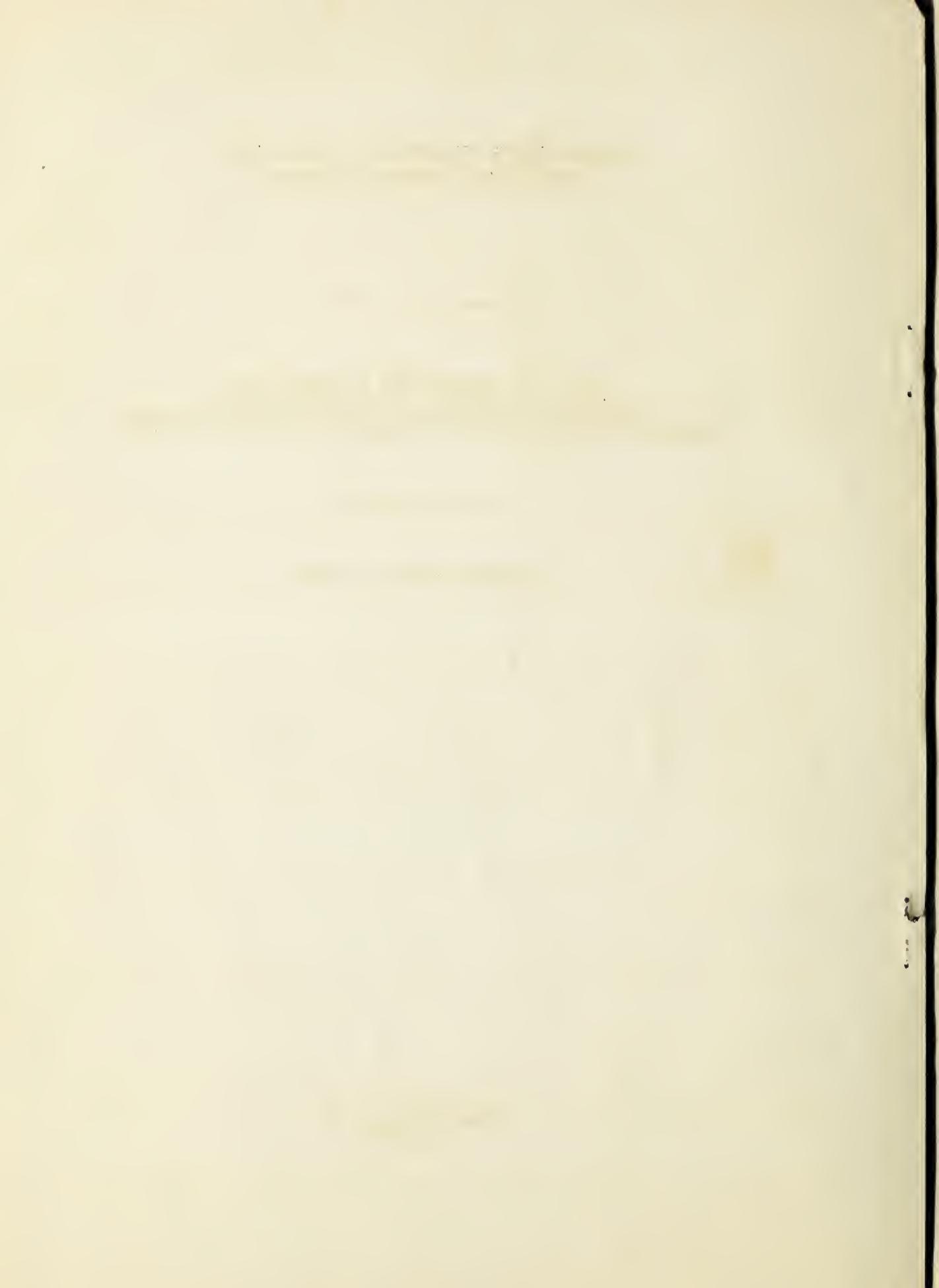
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As amended July 18, 1939

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Washington, D. C.  
July 1939



RULES AND REGULATIONS TO GOVERN THE  
INSPECTION, SAMPLING, AND CERTIFICATION OF  
COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES\*

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By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1938, \* \* \* and for other purposes" (Public No. 173, 75th Congress), I, H. A. Wallace, Secretary of Agriculture, do hereby fix, establish, and promulgate the following rules and regulations to govern the inspection, sampling, and certification of cottonseed sold or offered for sale for crushing purposes, the same to be in force and effect as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority. These rules and regulations shall supersede the rules and regulations governing the inspection, sampling, and certification of cottonseed promulgated by the Acting Secretary of Agriculture on July 30, 1937.<sup>1/</sup>

REGULATION 1.--DEFINITIONS

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. As used throughout these regulations, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

PARAGRAPH 1. The act.--The Act of Congress entitled "An Act making appropriations for the Department of Agriculture \* \* \* for the fiscal year ending June 30, 1938, "Public No. 173, 75th Congress, which makes provision "for enabling the Secretary of Agriculture to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, \* \* \* and other perishable farm products \* \* \* under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered."

PAR. 2. Custodian.--Person who has possession or control of cottonseed or of samples of cottonseed, as agent, controller, broker, or factor, as the case may be.

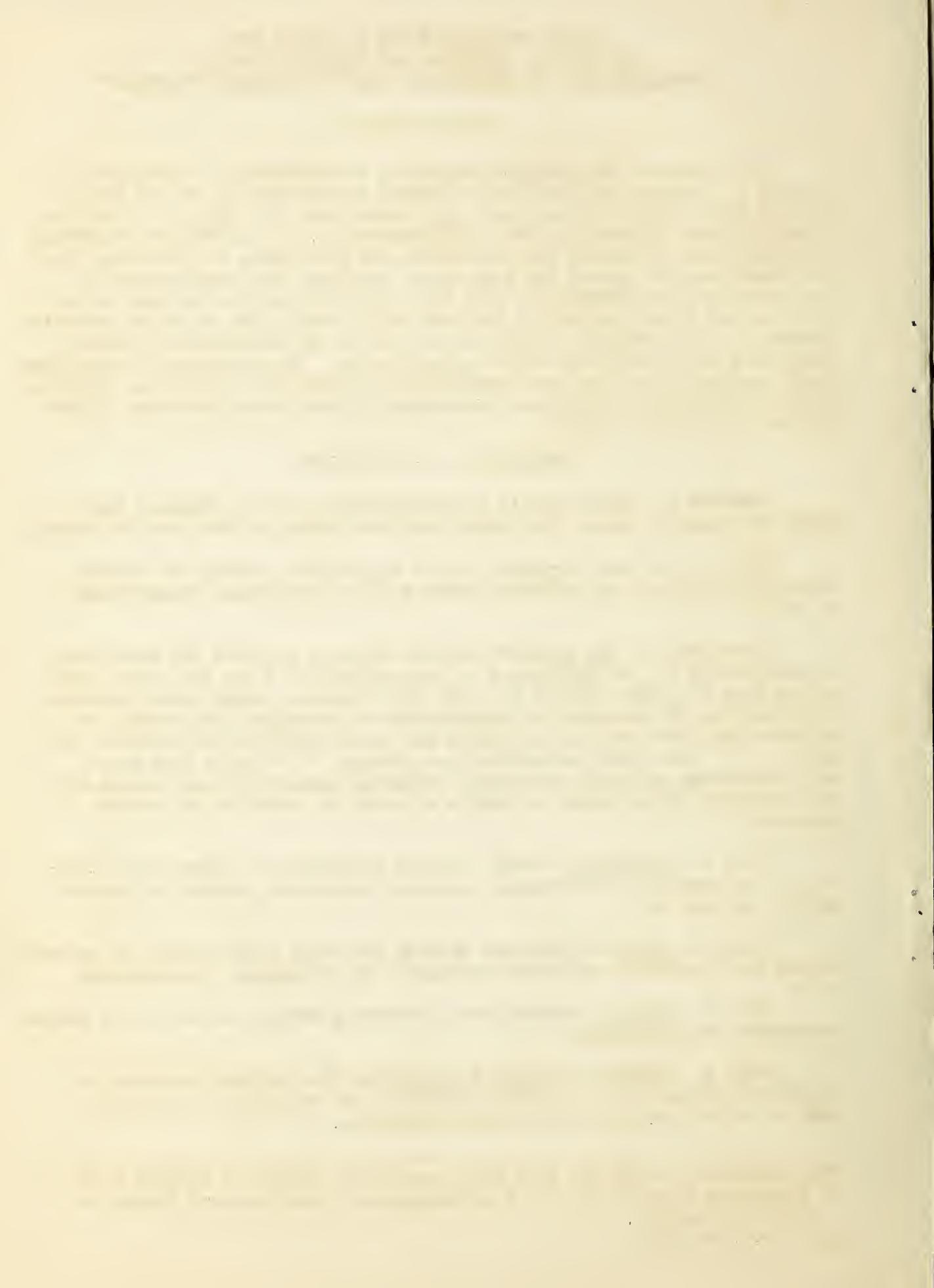
PAR. 3. Owner.--Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

PAR. 4. Service.--Agricultural Marketing Service of the United States Department of Agriculture.

PAR. 5. Official cottonseed standards.--The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

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\*The amendment of July 18, 1939 made some slight changes in Section 6 of Regulation 2 and in Section 2 of Regulation 3; and inserted Section 4 in Regulation 5.



PAR. 6. Supervisor of cottonseed inspection.--An officer of the Department of Agriculture designated as such by the Chief of the Service.

PAR. 7. Secretary.--The Secretary of Agriculture of the United States.

PAR. 8. The Chief of the Service.--The Chief of Agricultural Marketing Service, United States Department of Agriculture.

PAR. 9. Regulations.--Regulations made under the act by the Secretary.

PAR. 10. License.--A license issued under the act by the Secretary.

PAR. 11. Licensed cottonseed chemist.--A person licensed under the act by the Secretary to make quantitative and qualitative chemical analyses of samples of cottonseed according to the methods prescribed by the Chief of the Service and to certificate the grade according to the official cottonseed standards of the United States.

PAR. 12. Licensed cottonseed sampler.--A person licensed by the Secretary to draw and to certificate the authenticity of samples of cottonseed in accordance with these regulations.

PAR. 13. Dispute.--A disagreement as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

PAR. 14. Party.--A party to a dispute.

PAR. 15. Commercial laboratory.--A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

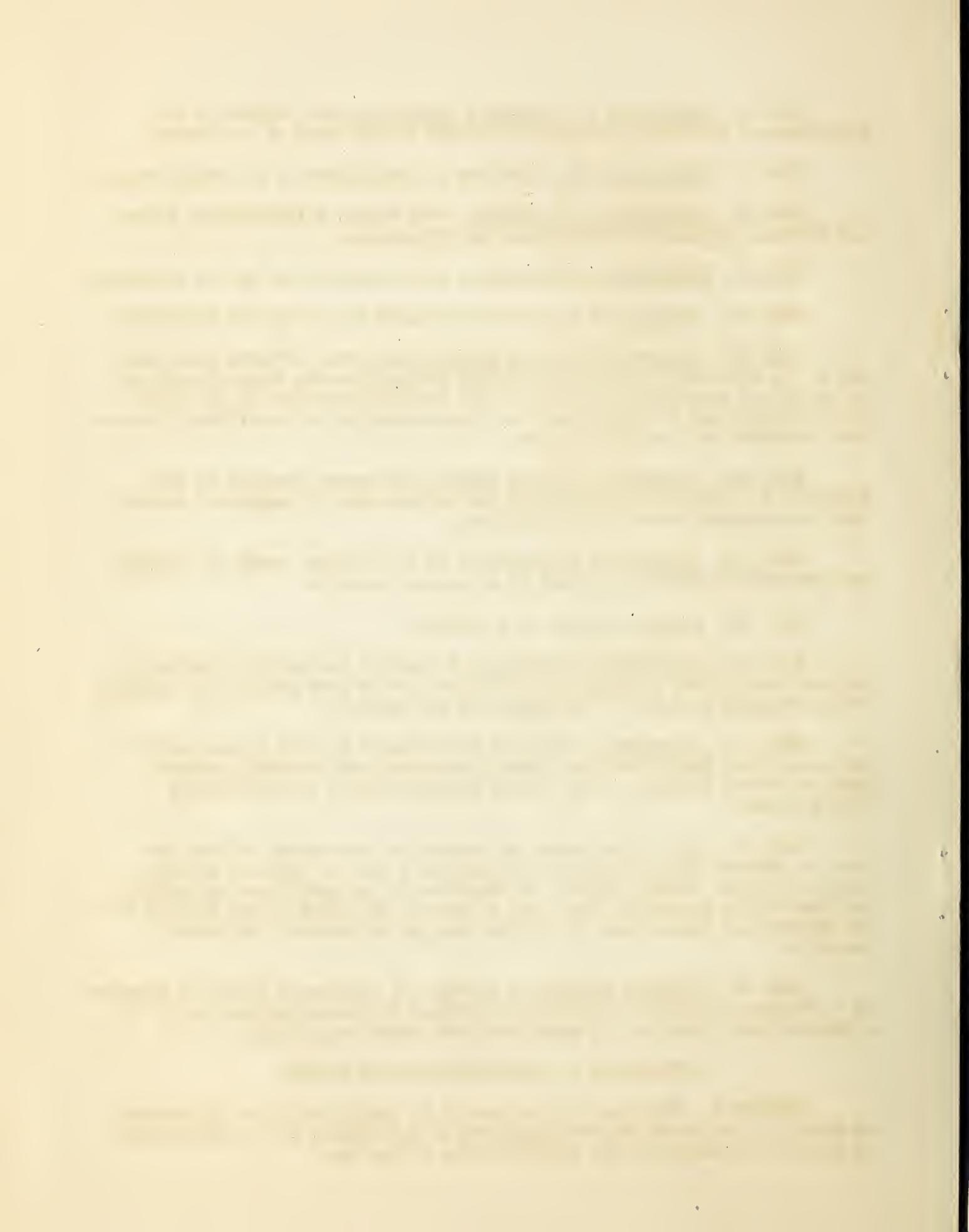
PAR. 16. Cottonseed.--The word "cottonseed" as used herein means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

PAR. 17. Lot.--That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Chief of the Service for the drawing and preparation of official samples by licensed cottonseed samplers.

PAR. 18. Official sample.--A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with these regulations.

#### REGULATION 2.--ADMINISTRATIVE AND GENERAL

SECTION 1. The Chief of the Service is charged with the supervision on behalf of the United States Department of Agriculture of the performance of all duties arising in the administration of the act.



SEC. 2. The Chief of the Service, whenever he deems necessary, may designate an officer of the Department of Agriculture as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and these regulations.

SEC. 3. The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall be performed as prescribed in methods approved from time to time by the Chief of the Service.

SEC. 4. Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: Provided, That in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval or acquiescence of the general management.

SEC. 5. Misrepresentation.--Any willful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the act and these regulations or the issuance or use of a certificate not issued by a person licensed under these regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

SEC. 6. Application for review.--In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to the designated agent of the Chief of Agricultural Marketing Service within one week after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to the agent of the Chief of Agricultural Marketing Service the retained portion of the original sample, together with such records as may be required, for the determination of the true grade. Such agent shall assign to such retained portion an official identification number and submit it to another licensed chemist for reanalysis. Should the grade found on reanalysis differ from the original by not more than plus or minus one full grade, the original grade shall be considered the true grade. Should the reanalysis indicate a grade differing more than plus or minus one full grade from the original, all work sheets involved shall be submitted to the Chief of Agricultural Marketing Service or his designated agent who shall determine the correct grade.



SEC. 7. In cases of review of the grade of any official sample of cottonseed, payment covering the costs of reanalysis shall accompany the application.

REGULATION 3.--LICENSED COTTONSEED CHEMISTS

SECTION 1. PARAGRAPH 1. Application for licenses to analyze and grade cottonseed shall be made to the Chief of the Service on forms authorized for the purpose by the Service.

PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by satisfactory evidence (a) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (b) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (c) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (d) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (e) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (f) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (g) such other information as the Chief of the Service may deem necessary.

PAR. 3. Every chemist licensed hereunder to analyze cottonseed and to certificate the grade thereof shall follow precisely the methods of analysis approved from time to time by the Chief of the Service.

PAR. 4. The applicant shall furnish such additional information as the Secretary or the Chief of the Service shall at any time find to be necessary to the consideration of his application.

SEC. 2. Examination of applicant.--Each applicant for a license as a chemist and each licensed chemist shall when requested submit to an examination or test to show his ability to analyze and grade cottonseed. His failure to pass such test may be considered sufficient ground for withholding the issuance to him of a license or of a renewal of a license.

SEC. 3. The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.



SEC. 4. It shall be a condition of the licensing of any person under this regulation, and of the retention by him of a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

SEC. 5. Whenever any chemist licensed under the act and in accordance with these regulations shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, nondiscriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Service. The schedule shall include the certificate fee provided for in Section 3 of Regulation 5, of these Regulations.

SEC. 6. Each licensed chemist, shall keep, or shall cause to be kept for him, for a period of at least 1 year, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any officer or agent of the Service authorized by the Chief of the Service for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations.

SEC. 7. (a) Each official sample of cottonseed as received by a licensed chemist shall be assigned a laboratory number and shall be analyzed and the grade certificated in the order of its receipt.

(b) Certificates of the grade of lots of cottonseed may be issued only upon samples certified by licensed samplers as official samples and received in good condition by licensed chemists, or known by such licensed chemists to be true and correct samples of the cottonseed involved.

(c) Certificates of the grade of unofficial samples of cottonseed may be issued upon samples received by licensed chemists if the samples are sufficient for proper analysis, have not been drawn by a licensed sampler, and are not known to be samples of the same seed represented by an official sample. Such certificates shall be plainly marked "Sample not official; grade applies to the sample only."

(d) No certificate of the grade of a sample of cottonseed shall be issued by a licensed chemist based on a sample the condition of which on receipt at the laboratory does not comply with the methods prescribed for the preparation and forwarding of samples of cottonseed.

SEC. 8. Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by the Chief of the Service and shall embody within its written or printed terms--

(a) The caption "Cottonseed Grade Certificate."



(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement that the certificate is issued by a chemist licensed by the Secretary of Agriculture to analyze and certificate the grade of cottonseed.

(e) A statement in accordance with the facts in each case, either (1) that the chemist knows the samples upon which his classification is based to be true and correct samples of the cottonseed involved; or (2) that the samples were received in proper condition from a sampler licensed by the Secretary; or (3) that the samples were not received from a licensed sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken.

(g) All analytical data required by the Chief of the Service.

(h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or these regulations.

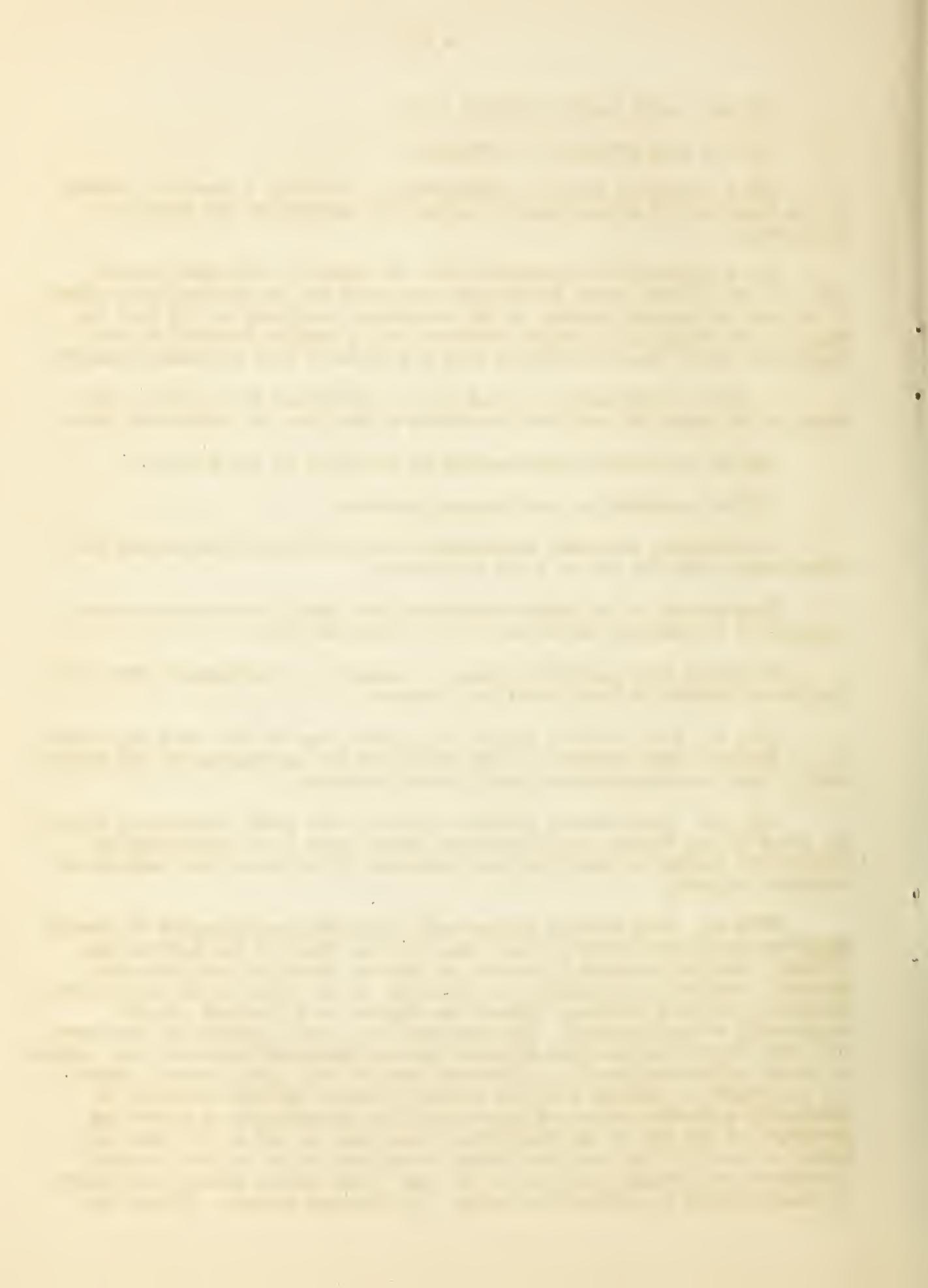
Four copies of the grade certificate form shall be submitted to and approved by the Service before use by a licensed chemist.

A copy of each certificate shall be mailed to a designated office of the Service within 36 hours after its issuance.

SEC. 9. Each licensed chemist shall from time to time when requested by the Service, make reports on forms furnished for the purpose by the Service bearing upon his activities as such licensed chemist.

SEC. 10. Every person licensed under the act shall immediately furnish the Chief of the Service any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

SEC. 11. Upon written request and a satisfactory statement of reasons therefore submitted by the licensed chemist, the Chief of the Service may, without a hearing, suspend or revoke the license issued to such licensed chemist. Pending investigation the Secretary or the Chief of the Service may, whenever he deems necessary, suspend the license of a licensed chemist temporarily without hearing. The Secretary may, after opportunity for hearing, when requested, has been afforded in accordance with this section, suspend or revoke a license issued to a licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. Before the



license of any licensed chemist is finally suspended or revoked, such licensed chemist shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, in which event an oral hearing shall be accorded him. Such hearing shall be held before and at the time and place fixed by the Secretary or the Chief of the Service or an official of the Department of Agriculture designated for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty which is relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

SEC. 12. If a license issued to a licensed chemist is suspended, revoked, or cancelled, such license shall be returned to the Service. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or cancelled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

SEC. 13. Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number, in the discretion of the Secretary.

SEC. 14. No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncancelled license issued under the act.

SEC. 15. Every person licensed under the act as a licensed chemist shall keep confidential all information secured by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in question, or to an authorized agent of the Chief of the Service.

#### REGULATION 4.--LICENSED COTTONSEED SAMPLERS

SECTION 1. PARAGRAPH 1. Applications for licenses to sample cottonseed shall be made to the Chief of Agricultural Marketing Service on forms furnished for the purpose by him.



PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation, administered by a duly authorized officer, and shall contain or be accompanied by (a) satisfactory evidence that he has passed his twenty-first birthday and that he is an actual resident of the continental United States, (b) satisfactory evidence of his experience in the handling and sampling of cottonseed, (c) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him, and with instructions issued from time to time by the Chief of the Service governing the sampling of cottonseed, and (d) such other information as the Chief of the Service may deem necessary.

PAR. 3. Every sampler shall include in his application to the Chief of the Service for a license a statement showing the fees, wages, or salary to be received by him as compensation for his work as a sampler of cottonseed.

SEC. 2. PARAGRAPH 1. Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Chief of the Service a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and these regulations. Said bond shall be in such form and amount, not less than \$1,000, and shall have such surety or sureties as shall be approved by the Chief of the Service, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

PAR. 2. If the Chief of the Service finds that conditions warrant such action, there shall be added to the amount previously required under paragraph 1 of this section such additional amount as he shall deem necessary.

SEC. 3. The period for which a license may be issued under this regulation shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year, provided that licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

SEC. 4. It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Chief of the Service or his authorized representative, provided that in the discretion of the Chief of the Service or his authorized representative a properly executed instrument in form approved by him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with this regulation may be filed in lieu of a new bond.



SEC. 5. No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of this regulation until it has been approved by the Chief of the Service or his authorized representative.

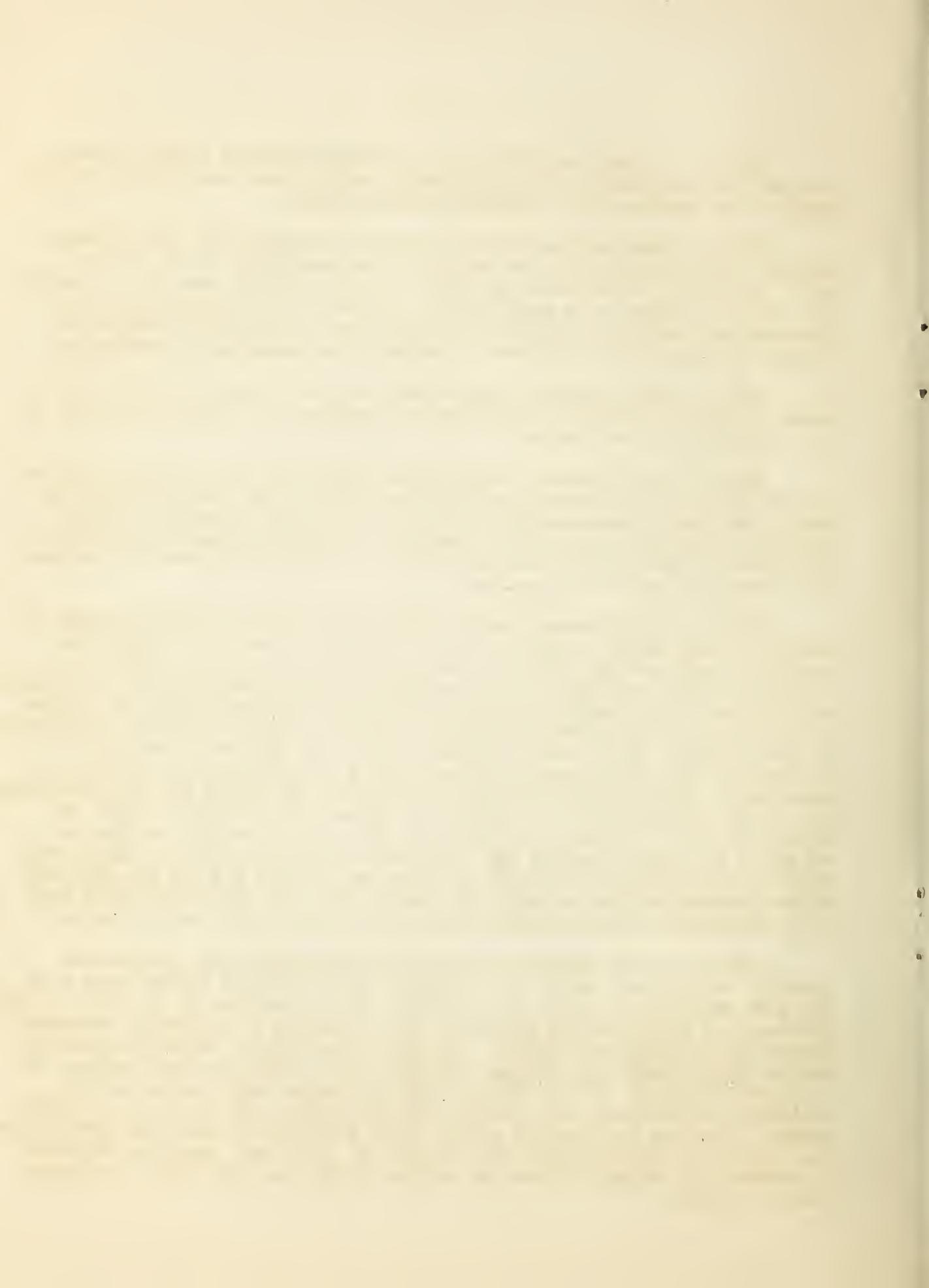
SEC. 6. Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Service, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Service any information requested at any time in regard to his sampling of cottonseed.

SEC. 7. Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Service.

SEC. 8. Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

SEC. 9. Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemist, and with tags and samplers' certificates approved or furnished by the Chief of the Service or his representative for identifying the samples of cottonseed and for certificating the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificate (a) the number thereof; (b) a suitable caption; (c) the location of the cottonseed involved and its point of origin; (d) the identification of the lot from which the sample was drawn; (e) the date on which the sample was drawn; (f) the gross weight of the original sample, and the net weight of the cleaned sample; (g) a statement indicating that the sample was drawn in accordance with these regulations, as amended; and (h) the signature of the licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Service.

SEC. 10. Each licensed cottonseed sampler shall draw, prepare and identify one official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Chief of the Service, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been analyzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.



SEC. 11. Each licensed sampler shall permit any authorized representative of the Service to inspect at any time his books, papers, records, and accounts relating to the performance of his duties under this regulation.

SEC. 12. The failure or refusal of any cottonseed sampler, duly licensed as such under these regulations, to draw, prepare, identify and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license.

SEC. 13. Pending final action by the Secretary, a sampler's license may be suspended by the Chief of the Service or by any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within 10 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

SEC. 14. In case a license issued to a sampler is suspended or revoked such license shall be returned to the Department. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the date of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in section 7 of this regulation.

SEC. 15. Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

SEC. 16. Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Service bearing upon his activity as such licensee.

SEC. 17. No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

SEC. 18. Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Service.

#### REGULATION 5.--FEES AND COSTS

SECTION 1. For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be \$5.00, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be \$3.00.

SEC. 2. For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be \$50.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be \$30.00.



SEC. 3. To cover in part the cost of administering these regulations each licensed cottonseed chemist shall pay to the Service 25 cents for each certificate of the grade of cottonseed issued by him. A statement showing the number of certificates issued shall be rendered to the Service each month, the same to be accompanied by the appropriate remittance in the form of a certified check, draft, or money order payable to the Treasurer of the United States.

SEC. 4. Fees for review of grading of cottonseed.--For the review of the grading of any lot of cottonseed in accordance with regulation 2, section 6, the fee shall be \$3.00. Remittance to cover such fee, in the form of a certified check, draft, or money order payable to the Treasurer of the United States, shall accompany each application for review. Of each such fee collected \$1.00 shall be covered into the Treasury as miscellaneous receipts and \$2.00 disbursed to the licensed chemist designated by an agent of the Chief of Agricultural Marketing Service to make the reanalysis of such seed.

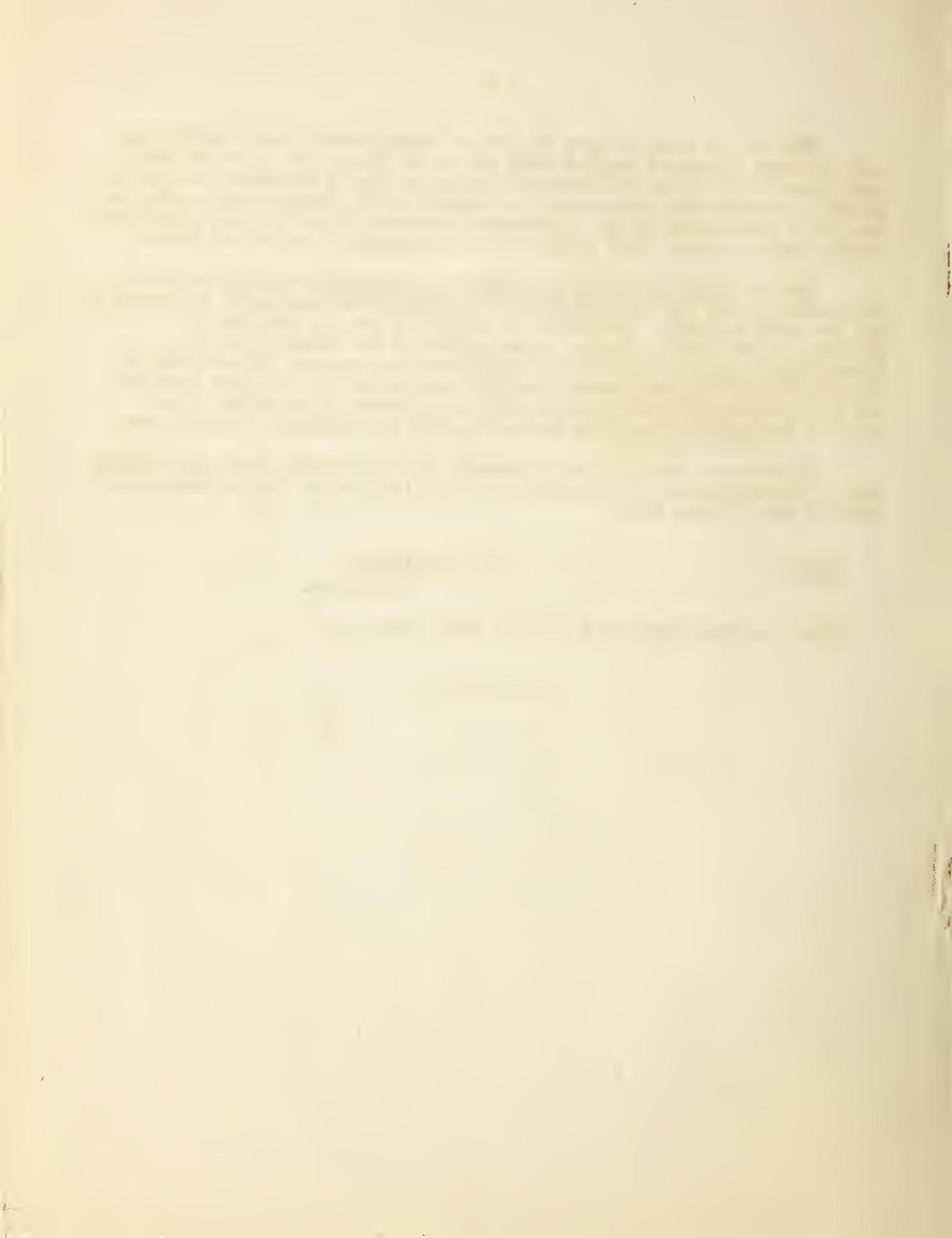
In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, this 7th day of June, 1938.

(SEAL)

H. A. WALLACE,  
Secretary.

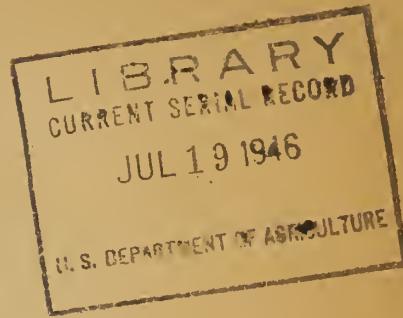
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UNITED STATES DEPARTMENT OF AGRICULTURE  
PRODUCTION AND MARKETING ADMINISTRATION



RULES AND REGULATIONS TO GOVERN THE  
INSPECTION, SAMPLING, AND CERTIFICATION OF  
COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES

Issued June 8, 1938

Amended July 18, 1939,  
June 21, 1943, Sept. 6, 1944,  
Jan. 3, 1945, and  
July 23, 1945

Washington, D. C.

Reissued 1945

Aug 1945

RULES AND REGULATIONS TO GOVERN THE  
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By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1938, \* \* \* and for other purposes" (Public No. 173, 75th Congress), I, H. A. Wallace, Secretary of Agriculture, do hereby fix, establish, and promulgate the following rules and regulations to govern the inspection, sampling, and certification of cottonseed sold or offered for sale for crushing purposes, the same to be in force and effect as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority. These rules and regulations shall supersede the rules and regulations governing the inspection, sampling, and certification of cottonseed promulgated by the Acting Secretary of Agriculture on July 30, 1937. 1/

REGULATION 1. -- DEFINITIONS

SECTION 1. Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. As used throughout these regulations, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

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PAR. 2. Custodian.--Person who has possession or control of cottonseed or of samples of cottonseed, as agent, controller, broker, or factor, as the case may be.

PAR. 3. Owner.--Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

PAR. 4. Administration.--Agricultural Marketing Administration (now the Production and Marketing Administration) of the United States Department of Agriculture.

PAR. 5 Official cottonseed standards.--The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

PAR. 6. Supervisor of cottonseed inspection.--An officer of the Department of Agriculture designated as such by the Administrator.

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PAR. 8. Administrator.--The Administrator of Agricultural Marketing Administration, (Now Production and Marketing Administration) United States Department of Agriculture.

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PAR. 15. Commercial laboratory.--A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

PAR. 16. Cottonseed.--The word "cottonseed" as used herein means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

PAR. 17. Lot.--That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Administrator for the drawing and preparation of official samples by licensed cottonseed samplers.

PAR. 18. Official sample.--A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with these regulations.

#### REGULATION 2.---ADMINISTRATIVE AND GENERAL

SECTION 1. The Administrator is charged with the supervision on behalf of the United States Department of Agriculture of the performance of all duties arising in the administration of the act.

SEC. 2. The administrator, whenever he deems necessary, may designate an officer of the Department of Agriculture as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and these regulations.

SEC. 3. The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall be performed as prescribed in methods approved from time to time by the administrator.

SEC. 4. Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: Provided, that in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval or acquiescence of the general management.

SEC. 5. Misrepresentation.--Any willful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the act and these regulations or the issuance or use of a certificate not issued by a person licensed under these regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

SEC. 6. Application for review.--In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to a supervisor of cottonseed inspection within ten days after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to such supervisor the retained portion of the original sample, together with such records as may be required, for the determination of the true grade. The supervisor shall assign to such retained portion an identification number, shall divide such retained portion into two parts and submit the parts to two other licensed cottonseed chemists for reanalysis. Should the supervisor determine that such reanalyses indicate a grade differing from the original by not more than plus or minus one full grade, the original grade shall be considered the true grade. Should he find that such reanalyses indicate a grade differing more than plus or minus one full grade from the original, he shall determine the true grade. In any case, the supervisor shall issue over his name an appeal cottonseed grade certificate showing the true grade as determined in accordance with this section, which shall supersede the licensed chemists' certificates relating to the grade of such seed. Where due solely to errors in calculation or clerical error a grade certificated by a licensed cottonseed chemist is not the true grade, the supervisor shall direct the licensee to cancel the original and to issue a correct certificate. Should such error be found after an application for review

has been filed, the supervisor shall nevertheless issue an appeal cottonseed grade certificate showing the true grade of the cottonseed involved.  
(Amendment June 21, 1943)

SEC. 7. In cases of review of the grade of any official sample of cottonseed, payment covering the costs of reanalysis shall accompany the application.

#### REGULATION 3.--LICENSED COTTONSEED CHEMISTS

SECTION 1. PARAGRAPH 1. Application for licenses to analyze and grade cottonseed shall be made to the Administrator on forms authorized for the purpose by the Administration.

PAR. 2. Each such application shall be in English and shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by satisfactory evidence (a) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (b) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (c) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (d) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (e) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (f) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (g) such other information as the Administrator may deem necessary.

PAR. 3. Every chemist licensed hereunder to analyze cottonseed and to certificate the grade thereof shall follow precisely the methods of analysis approved from time to time by the Administrator.

PAR. 4. The applicant shall furnish such additional information as the Secretary or the Administrator shall at any time find to be necessary to the consideration of his application.

SEC. 2. Examination of applicant.--Each applicant for a license as a chemist and each licensed chemist shall when requested submit to an examination or test to show his ability to analyze and grade cottonseed. His failure to pass such test may be considered sufficient ground for withholding the issuance to him of a license or of a renewal of a license.

SEC. 3. The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

SEC. 4. It shall be a condition of the licensing of any person under this regulation, and of the retention by him of a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

SEC. 5. Whenever any chemist licensed under the act and in accordance with these regulations shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, nondiscriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Administration. The schedule shall include the certificate fee provided for in Section 3 of Regulation 5, of these Regulations.

SEC. 6. Each licensed chemist shall keep, or shall cause to be kept for him, for a period of at least 1 year, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any officer or agent of the Administration authorized by the Administrator for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records and accounts relating to the performance of his duties under the act and these regulations.

SEC. 7. Official and unofficial samples: analyses: certificate.

(a) Each licensed cottonseed chemist shall assign a laboratory number to each sample of cottonseed received by him and shall analyze and certificate over his signature the grade of each sample or lot of cottonseed in the order in which the sample is received.

(b) Each such sample which is in proper condition for analysis under these regulations and which is accompanied by the certificate of a licensed cottonseed sampler certifying it to be an official sample representing an identified lot of cottonseed shall be considered an official sample. In any case where the original official sample is lost or destroyed before analysis the duplicate thereof retained by the licensed cottonseed sampler as provided in Reg. 4, Sec. 10 shall become the official sample; and in any case where a review is requested under Reg. 2, the retained portion of the official sample first analyzed shall be considered an official sample for purposes of review analysis.

(c) Each such sample which is (1) not in proper condition for analysis as an official sample under these regulations, or (2) not accompanied by a certificate of a licensed cottonseed sampler, or (3) known to be a duplicate of an official sample (except duplicates of lost or destroyed official samples) shall be considered an unofficial sample and the licensed cottonseed chemist's certificate of the grade thereof shall be plainly marked: 'Sample not official; grade applies to sample only.' This paragraph shall not apply to mill control or crush samples. (Amendment July 23, 1945)

SEC. 8. Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by the Administrator and shall embody within its written or printed terms--

(a) The caption "Cottonseed Grade Certificate."

- (b) The serial number assigned to it.
- (c) The date and place of issuance.
- (d) A statement that the certificate is issued by a chemist licensed by the Secretary of Agriculture to analyze and certificate the grade of cottonseed.
- (e) A statement in accordance with the facts in each case, either (1) that the chemist knows the samples upon which his classification is based to be true and correct samples of the cottonseed involved; or (2) that the samples were received in proper condition from a sampler licensed by the Secretary; or (3) that the samples were not received from a licensed sampler.
- (f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken.
- (g) All analytical data required by the Administrator.
- (h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or these regulations.

Four copies of the grade certificate form shall be submitted to and approved by the Administration before use by a licensed chemist.

A copy of each certificate shall be mailed to a designated office of the Administration within 36 hours after its issuance.

SEC. 9. Each licensed chemist shall from time to time when requested by the Administration, make reports on forms furnished for the purpose by the Administration bearing upon his activities as such licensed chemist.

SEC. 10. Every person licensed under the act shall immediately furnish the Administrator any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

SEC. 11. Upon written request and a satisfactory statement of reasons therefor submitted by the licensed chemist, the Administrator may, without a hearing, suspend or revoke the license issued to such licensed chemist. Pending investigation the Secretary or the Administrator may, whenever he deems necessary, suspend the license of a licensed chemist temporarily without hearing. The Secretary may, after opportunity for hearing, when requested, has been afforded in accordance with this section, suspend or revoke a license issued to a licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. Before the license of any licensed chemist is finally suspended or revoked, such licensed chemist shall be furnished by the

Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, in which event an oral hearing shall be accorded him. Such hearing shall be held before and at the time and place fixed by the Secretary or the Administrator or an official of the Department of Agriculture designated for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty which is relevant to the issues involved in the hearing, shall be admissible as *prima facie* evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

SEC. 12. If a license issued to a licensed chemist is suspended, revoked, or cancelled, such license shall be returned to the Administration. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or cancelled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

SEC. 13. Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number, in the discretion of the Secretary.

SEC. 14. No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncancelled license issued under the act.

SEC. 15. Every person licensed under the act as a licensed chemist shall keep confidential all information secured by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in question, or to an authorized agent of the Administrator.

#### REGULATION 4.-- LICENSED COTTONSEED SAMPLERS

SECTION 1. PARAGRAPH 1. Applications for licenses to sample cottonseed shall be made to the Administrator of Agricultural Marketing Administration (Now Production and Marketing Administration) on forms furnished for the purpose by him.

PAR. 2. Each such application shall be in English, shall be signed

by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he is an actual resident of the United States, (2) satisfactory evidence of his experience in the handling and sampling of cottonseed, (3) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they relate to him, and with instructions issued from time to time governing the sampling of cottonseed, and (4) such other information as may be required. (Amended Sept. 6, 1944, and Jan. 3, 1945)

PAR. 3. Every sampler shall include in his application to the Administrator for a license a statement showing the fees, wages, or salary to be received by him as compensation for his work as a sampler of cottonseed.

SEC. 2. PARAGRAPH 1. Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Administrator a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and these regulations. Said bond shall be in such form and amount, not less than \$1,000, and shall have such surety or sureties as shall be approved by the Administrator, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

PAR. 2. If the Administrator finds that conditions warrant such action, there shall be added to the amount previously required under paragraph 1 of this section such additional amount as he shall deem necessary.

SEC. 3. The period for which a license may be issued under this regulation shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year, provided that licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

SEC. 4. It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Administrator or his authorized representative, provided that in the discretion of the Administrator or his authorized representative a properly executed instrument in form approved by him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with this regulation may be filed in lieu of a new bond.

SEC. 5. No bond, amendment, or continuation thereto shall be deemed accepted for the purpose of this regulation until it has been approved by the Administrator or his authorized representative.

SEC. 6. Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Administration, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Administration any information requested at any time in regard to his sampling of cottonseed.

SEC. 7. Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Administration.

SEC. 8. Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

SEC. 9. Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemists, and with tags and samplers' certificates approved or furnished by the Administrator or his representative for identifying the samples of cottonseed and for certifying the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificates (a) the number thereof; (b) a suitable caption; (c) the location of the cottonseed involved and its point of origin; (d) the identification of the lot from which the sample was drawn; (e) the date on which the sample was drawn; (f) the gross weight of the original sample, and the net weight of the cleaned sample; (g) a statement indicating that the sample was drawn in accordance with these regulations, as amended; and (h) the signature of the licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Administration.

SEC. 10. Each licensed cottonseed sampler shall draw, prepare and identify one official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Administrator, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been analyzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.

SEC. 11. Each licensed sampler shall permit any authorized representative of the Administration to inspect at any time his books, papers, records, and accounts relating to the performance of his duties under this regulation.

SEC. 12. The failure or refusal of any cottonseed sampler, duly licensed as such under these regulations, to draw, prepare, identify and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license.

SEC. 13. Pending final action by the Secretary, a sampler's license may be suspended by the Administrator or by any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within 10 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer in his behalf.

SEC. 14. In case a license issued to a sampler is suspended or revoked such license shall be returned to the Department. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the date of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in section 7 of this regulation.

SEC. 15. Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

SEC. 16. Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Administration bearing upon his activity as such licensee.

SEC. 17. No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

SEC. 18. Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Administration.

#### REGULATION 5.-- FEES AND COSTS

SECTION 1. For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be \$5.00, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be \$3.00.

SEC. 2. For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be \$50.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be \$30.00.

SEC. 3. To cover in part the cost of administering these regulations each licensed cottonseed chemist shall pay to the Administration 25 cents for each certificate of the grade of cottonseed issued by him. A statement showing the number of certificates issued shall be rendered to the Administration each month, the same to be accompanied by the appropriate remittance in the form of a certified check, draft, or money order payable to the Treasurer of the United States.

SEC. 4. Fees for review of grading of cottonseed.--For the review of the grading of any lot of cottonseed the fee shall be \$6.00. Remittance to cover such fee, in the form of a certified check, draft, or money order payable to the Treasurer of the United States, shall accompany each application for review. Of each such fee collected \$1.00 shall be covered into the Treasury as miscellaneous receipts and \$2.50 disbursed to each of the two licensed chemists designated to make reanalyses of such seed. (Amendments June 21, 1943)